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5 UNITED STATES DISTRICT COURT  
6 NORTHERN DISTRICT OF CALIFORNIA

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8 MARCUS L. HARRISON, No. C 09-4665 SI (pr)  
9 Plaintiff,  
10 v.  
11 D.E. MILLIGAN, et al.,  
12 Defendants.

**ORDER DENYING APPOINTMENT  
OF COUNSEL**

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15 This case has been referred to Magistrate Judge Vadas for settlement proceedings.  
16 Plaintiff has requested that counsel be appointed to represent him during the settlement  
17 conference and, should the case not settle, at trial. A district court has the discretion under 28  
18 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional  
19 circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires  
20 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to  
21 articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.*  
22 Neither of these factors is dispositive and both must be viewed together before deciding on a  
23 request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the  
24 appointment of counsel are not evident. The request for appointment of counsel is DENIED.  
25 (Docket ## 31, 32.)

26 IT IS SO ORDERED.

27 Dated: March 22, 2012

  
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SUSAN ILLSTON  
United States District Judge

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